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**FACSIMILE TRANSMISSION**

February 14, 2006

[321904.1011]

**TO**

**FROM**

Jon Holland

Zoila E. Cabrera

FAX: 571-273-8300

FAX: 256-704-3905

TEL:

TEL: 256-704-3900, Ext. 103

RE: U.S. Patent Application Serial No.: 10/772,232

10/772,032

Number of Pages (Including This Cover Sheet): ~~6~~ Page(s)  
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Date: 2-14-06Shana L. East  
Shana L. East

In re application of: **Wade C. Patterson** Confirmation No.: **3895**  
U.S. Serial Number: **10/772,032** Art Unit: **2125**  
Filing Date: **February 4, 2004** Examiner: **Cabrera, Zoila E.**  
Our Reference Number: **321904.1011**  
Title: **System and Method for Controlling Temperature of a Liquid Residing Within A Tank**

Submission of Terminal Disclaimer  
Terminal Disclaimer  
Credit Card Authorization Form

FEB 14 2006

## PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:	)	
Patterson, <i>et al.</i>	)	
Serial No.: 10/772,032	)	Art Unit: 2125
Filed: February 4, 2004	)	Examiner: Cabrera, Zoila E.
For: SYSTEM AND METHOD FOR	)	Docket No.: 321904.1011
CONTROLLING TEMPERATURE OF A	)	
LIQUID RESIDING WITHIN A TANK	)	

SUBMISSION OF TERMINAL DISCLAIMER

Mail Stop Amendments  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In regard to the above-identified application, Applicants submit the following remarks.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. §1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to Thomas, Kayden, Horstemeier, & Risley, L.L.P. Deposit Account No. 20-0778.

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Date:

2-14-06

By:

Shana R. East

Shana R. East

REMARKS

In a recent telephone conversation between Examiner Cabrera and Applicants' undersigned counsel, the Examiner indicated that obviousness-type double patenting issues potentially exist between claims of the instant application and U.S. Patent No. 6,989,514. To obviate possible double patenting issues, Applicants submit herewith a terminal disclaimer pertaining to U.S. Patent No. 6,989,514.


In filing the terminal disclaimer, Applicants rely upon the rulings of the Federal Circuit that the filing of such a terminal disclaimer does not act as an admission, acquiescence or estoppel on the merits of the obviousness issue. "In legal principle, the filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither presumption nor estoppel on the merits of the rejection." *Quad Environmental Tech. v. Union Sanitary Dist.*, 946 F.2d 870, 874 (Fed. Cir. 1991); *Ortho Pharmaceutical Corp. v. Smith*, 959 F.2d 936, 941-942 (Fed. Cir. 1992).

If the Examiner has any questions or comments regarding this paper, the Examiner is encouraged to telephone Applicants' undersigned counsel.

Respectfully submitted,

THOMAS, KAYDEN, HORSTEMEYER  
& RISLEY, L.L.P.

By:

  
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Reg. No. 41,077

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FEB 14 2006

PTO/SB/28 (09-04)

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<b>TERMINAL DISCLAIMER TO OBTAIN A DOUBLE PATENTING REJECTION OVER A "PRIOR" PATENT</b>	<b>Docket Number</b> 321904.1011
In re Application of: <b>Wade C. Patterson</b> Application No. <b>10/772,232</b> Filed: <b>February 4, 2004</b>	
<b>For: SYSTEM AND METHOD FOR CONTROLLING TEMPERATURE OF A LIQUID RESIDING WITHIN A TANK</b>	
<p>The owner*, <u>Synapse, Inc.</u> of <u>100</u> percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term of prior patent No. <u>6,989,514 B2</u> as the term of said patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon grantee, its successors or assigns.</p> <p>In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that it later:</p> <ul style="list-style-type: none"> <li>expires for failure to pay a maintenance fee;</li> <li>is held unenforceable;</li> <li>is found invalid by a court of competent jurisdiction;</li> <li>is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;</li> <li>has all claims cancelled by a reexamination certificate;</li> <li>is reissued; or</li> <li>is any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.</li> </ul>	
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